

Thursday, 19 December 2024

Director
CDR Framework Unit
Treasury
Langton Cres
Parkes ACT 2600

Dear Director

Expanding the CDR to non-bank lending and narrowing the scope of CDR data in banking

Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants (we/our) together with our respective affiliate bodies represent over 350,000 professional accountants in Australia, New Zealand and around the world. Our members, professional accountants, are trusted advisers within the CDR regime.

Design for the inclusion of NBL

While we support expanding the CDR to include non-bank lenders (NBL), we consider the proposed classes of non-bank lenders (NBL) to be mandated will not facilitate more informed consumer engagement, help consumers to better understand and manage their finances nor drive competition in the lending sector as intended.

The inclusion of NBLs should enable consumers to utilise their data across the breadth of Australia's lending system with growth in non-bank lending since 2015 averaging almost 15 per cent on a six-month annualised basis, more than twice the rate recorded by banks.¹ We would seek clarification of the rationale for the proposed classes of NBLs to be designated for mandatory data sharing, being more than \$10 billion in resident loans and resident finance leases for initial NBL's and more than \$1 billion for large NBLs.

Such a high value threshold appears contrary to the Australian Competition and Consumer Commission's (ACCC), a co-regulator of the CDR, recommendation in their submission of April 2022. ACCC recommended applying the Collection of Data Act definition of a data holder, being those with assets greater than \$50 million, to capture those providers that closely compete with the banking sector.² ACCC made its recommendation with the aim of including medium and large NBL providers and larger Buy Now Pay Later (BNPL) firms.

¹ Hudson C, Kurian S and Lewis M; 16 March 2023; *Non-bank Lending in Australia and the Implications for Financial Security*; RBA Bulletin – March 2023; <https://www.rba.gov.au/publications/bulletin/2023/mar/non-bank-lending-in-australia-and-the-implications-for-financial-stability.html>

² ACCC, Submission to Treasury sectoral assessment of Open Finance – non-bank lending – for the Consumer Data Right, April 2022

We note in Treasury's consultation paper of 2022 that the Collection of Data Act definition was of concern as it would result in approximately 1,500 NBLs being included, with a large number of those being small entities³. To avoid the potential cost of compliance on smaller NBLs, in that paper, Treasury said it was considering mandating data sharing obligations for NBLs that have total resident loan and resident finance lease balances of over \$400 million⁴. There does not appear to be any rationale for the proposed thresholds to define an initial and large provider being significantly higher.

It would suggest that the number of NBLs to be captured will be minimal. We reiterate our concern raised in our [joint submission](#) dated 31 January 2023 that mandating only large players in a sector will provide a significant competitive advantage to those players, rather than increase the benefits for consumers or promote competition across the Australian economy.

We again recommend that Treasury works with industry and seeks innovative alternatives, such as a government data holder into which smaller players can plug into, to mitigate the prohibitive cost of accreditation and compliance in the CDR.

Narrowing scope of CDR data

We are also concerned with the proposed change, reducing from 7 years to 2 years, to the mandatory period for a bank or NBL data holder to provide a consumers' historical data relating to transactions before the time a data request is made. We are unclear how this is in the best interests of consumers or the parties they wish to disclose data to, particularly, their trusted advisers.

The rationale provided in the Exposure Draft Explanatory Materials appears to only consider the impact on data holders with no consideration of the use of historical data by the consumer and the professionals that service consumers. For example, where a consumer changes accountants, the consumer may wish to disclose their historical data to enable the new accountant to establish how they have reached their current financial status.

Equally, accessing the data a consumer is required to disclose to another regulator. For example, records must be kept covering the 5-year retention period and the period of review by the Australian Taxation Office. Similarly, to be compliant with Australia's anti-money laundering and counter-terrorism financing regime, a reporting entity must retain records for 7 years.

There is no question that existing data holders and new data holders will have historical data for only as long as a consumer has held an account with them. Making the provision of the consumers' data they hold that was created more than two years prior to a data request voluntary, simply creates a channel for data holders to charge consumers to access their

³ Treasury, Consumer data right in non-bank lending, CDR rules and data standards design paper, December 2022

⁴ *ibid*

own historical data. In our opinion, the possibility of paying to access their own historical data, is likely to keep consumer interactions with their trusted advisers and other regulators outside the CDR.

The rationale of the design for the inclusion of NBLs and narrowing the scope of CDR data, as stated in Exposure Draft Explanatory Materials, is based on enabling data holders and accredited parties to service only priority use cases. This appears contrary to, and will not achieve, Treasury's stated aims of increasing the availability of data or help consumers, not just consumer that fall into priority use cases, to better understand and manage their finances.

Design amendments and expanding the CDR to other sectors of the economy, a digital infrastructure platform funded by and intended to benefit consumers, should not be determined by the depth of resources of a potential data holder.

If you would like to discuss our feedback in greater detail, please contact Jill Muir at jill.muir@charteredaccountantsanz.com in the first instance.

Sincerely,

Simon Grant

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and International
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